IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Mat.Appeal.No. 182 of 2007()

OP.141/2005 of FAMILY COURT, KALPETTA
.....

APPELLANT/RESPONDENT::

MANIKANDAN, S/O.AYYAPPAN EZHUTHCHAN,
PARAKKADAVE, MANIYAMKODE, KALPETTA.

BY ADV. SRI.B. JAYASURYA

RESPONDENTS/RESPONDENTS:
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1. PARUKUTTY @ PARVATHY C.R.,
W/O.MANIKANDAN, KOTTAMCHIRAYIL,
PONNADU,MANIYANKODE,
KALPETTA,

2. JIJI KUMAR, (MINOR),
S/O.MANIKANDAN, KOTTAMCHIRAYIL,
PONNADU,MANIYANKODE, KALPETTA
(REPRESENTED BY IST RESPONDENT).

BY

THIS MATRIMONIAL APPEAL HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

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MAT. APPEAL No. 182 OF 2007

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Dated this the 13th April , 2007

J U D G M E N T

Kurian Joseph, J:

This appeal is filed against the order dated 01.02.2007 in O.P. 141 of 2005 on the file of the Family Court, Kalpetta. Appellant/Petitioner is the respondent-husband. Claim is for past maintenance . The Family Court, taking note of the entire facts and circumstances of the case granted an amount of Rs. 36,000/- with 6% interest from the date of the order till realisation.

2. Adv. Shri Jayasurya, counsel for the appellant submits that the finding of the court below is without any basis. It is also submitted that the calculation of the amount is without any reference to the capacity of the petitioner to pay the maintenance. Yet another contention is that respondents are living separately without any justifiable reasons. We are afraid that none of these contentions can be appreciated. It is seen from the detailed judgment of the Family Court that proper issues have been framed in the case and that evidence available on record was properly

appreciated. On appreciating such evidence, entitlement for past maintenance was limited to three years. It is also seen that towards respondents' claim for Rs.1000/- per month as maintenance, what is granted is only Rs.500/- , taking note of the capacity of the appellant and also of the entitlement of the respondents. The court below also held that the liability of the appellant to pay maintenance to the respondents shall be a charge on the property held by him.

3. Counsel for the appellant submits that the appellant may be granted time to pay the amount in instalments. It is for the appellant to approach the Family Court, Kalpetta , in which case the prayer will be duly considered by the Family Court before pursuing coercive steps for personal execution.

Matrimonial Appeal is dismissed with liberty to the appellant to move the Family Court, as above.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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